County of Fairfax, Virginia
Planning Commission Meeting
January 7, 2026
Planning Commission Action

RZ/FDP-2022-LE-00016 - STEVEN MICHAEL SUSHNER, TR. AND ADAM KIRSCHENBAUM TR.
(Franconia District)

PLANNING COMMISSION RECOMMENDATIONS:
On January 7, 2026, the Planning Commission voted 12-0 to recommend to the Board of Supervisors approval of RZ-2022-LE-00016 and its associated Conceptual Development Plan, subject to proffers consistent with those dated December 3, 2025.

In a related action, the Planning Commission voted 12-0 to approve FDP-2022-LE-00016.

ATTACHED DOCUMENTS:
Proffers dated December 3, 2025

MJ

PROFFER STATEMENT

BEULAH STREET

RZ FDP 2022-LE-00016

DECEMBER 3, 2025

Pursuant to Section 15.2-2303(A) Code of Virginia, 1950, as amended, and Trust agreement of Steven Michael Sushner and Trust Agreement of Adam Kirschenbaum (subsequently collectively referred to as the "Applicant"), for themselves, their successors and assigns, (subsequently collectively referred to as the "Applicant") in RZ FDP 2022-LE-00016 filed for the Applicant Property identified as Fairfax County Tax Map Nos. 90-4 ((1)) 20; 91-3 ((1)) 24; and 91-3((1)) 25 (subsequently referred to as the "Applicant Property"), hereby proffers that the development of the Applicant Property will be in accordance with the following conditions (the "Proffers") upon approval of application RZ FDP 2022-LE-00016 (the "Application") by the Board of Supervisors to rezone the Applicant Property from the R-1 District to the Planned Development Housing PDH-2 District. If the Application is not so approved, these Proffers will thereby be null and void.

CONCEPT DEVELOPMENT PLAN/FINAL DEVELOPMENT PLAN:

1. **Substantial Conformance**. Development of the Applicant Property will be in substantial conformance with the Concept Development Plan (the "CDP") and Final Development Plan ("FDP") (collectively, "CDP/FDP"), entitled "Beulah Street," containing twenty-six (26) sheets prepared by IMEG Corp., dated 9/6/2022 and revised through 10/15/2025.

2. **Minor Modifications**. Minor modifications to the CDP/PDP may be permitted as determined by the Zoning Administrator in accordance with subsection 8100.5.A.(1) of the Zoning Ordinance, including the flexibility to modify the layout shown on the CDP/PDP for all buildings provided such changes are in substantial conformance with the CDP/PDP as determined by the Zoning Administrator and do not affect the proffered elements of the CDP/PDP as specified herein.

3. **Minor Variations**. Minor variations to these proffered conditions and the CDP/PDP may be approved in accordance with the provisions of subsection 8100.5.A.(2) of the Zoning Ordinance without the need for a proffered condition amendment (PCA).

PROPOSED DEVELOPMENT

4. **Use**. Development of the Applicant Property will be limited to a maximum of eight (8) single family detached dwelling units.

TRANSPORTATION AND PUBLIC STREET DEDICATION

5. **Beulah Street Access**. Access to the Applicant Property must be provided *via* one right-in right-out access on Beulah Street as shown on the CDP/FDP.

6. **Street Construction Standards**. The public street to be constructed on the Applicant Property will be constructed according to all applicable VDOT and FCDOT standards, and such standards to be followed will accommodate the on-street parking shown on the CDP/FDP.

7. **Driveways**. All driveways must be a minimum of 18 feet in length, measured from the garage to the back of sidewalk, and 16 feet in width to ensure that two cars can park in the driveway and that cars parking in the driveways do not overlap onto the sidewalk.

8. **The Applicant must dedicate right of way as follows**:

   A. **Subdivision Plan Approval**. At the time of Subdivision Plan approval, or upon demand by FCDOT in coordination with VDOT, whichever occurs first, at no cost to Fairfax County, and in fee simple, without encumbrances, to the Board of Supervisors, the right of way and any associated ancillary easements, as generally shown on the CDP/FDP.

   B. **Advanced Density Credit**. As for the dedication described in Section 8.A, advanced density credit is reserved consistent with the provisions of the Fairfax County Zoning Ordinance for all eligible dedications described herein or as may be required by FCDOT in coordination with VDOT.

9. **Access for Dominion Energy and Fairfax County Fire and Rescue**.

   A. **Definitions**.

      i. "Dominion" means Dominion Energy, Inc., its successors and assigns, and its authorized representatives.

      ii. "FCFRD" means Fairfax County Fire and Rescue Department, its successors and assigns, and its authorized representatives.

      iii. "D&FCFRD" means Dominion and FCFRD collectively.

      iv. "Subdivision Plan" means collectively the Application's Subdivision Plan review consistent with the CDP/FDP Plat and the Zoning Ordinance.

v. "Cul de Sac Barrier" means the barrier to be constructed near where the Travelway meets the cul-de-sac, as shown and labeled on the CDP/FDP, Sheet C 400, Development Plan.

vi. "Rail Fence Gate" means the barrier to be constructed near the westerly end of proposed Lot 8, where the Travelway meets the common border with Lot 8 and Outlot B, as shown and labeled on the CDP/FDP, Sheet C 400, Development Plan.

vii. "Travelway" means the strip of land extending from the westerly end of the public road's cul de sac to the northwesterly corner of the Applicant Property, that is parallel to the overhead utility pole line running along the Applicant Property's northerly property line, as shown on the CDP/FDP, Sheet C 400, Development Plan.

B. **Travelway**.

i. The Travelway must be at least fifteen (15) feet wide.

ii. The Travelway's structural integrity, including its load-bearing capacity, must be reviewed and approved by D&FCFRD in the course of the Subdivision Plan review and approval process.

iii. The Applicant must strive to obtain approval to install pervious and suitable load-bearing surface, such as grasscrete, if D&FCFRD approves, in the course of the Subdivision Plan review and approval process.

iv. Any obstructions that would block or in any way endanger or interfere with the proper and efficient use of the Travelway by D&FCFRD are prohibited.

v. Before record plat approval, the Applicant must record a perpetual vehicular access easement, in substance and form acceptable to D&FCFRD, consistent with the terms and conditions of this Section 9, that burdens the Travelway for the benefit of D&FCFRD.

C. **Cul de Sac Barrier**.

i. The Applicant must install the Cul de Sac Barrier in substantial conformance with the architectural design and features provided on the CDP/FDP as shown on Sheet C200, or must install any equivalent alternative design in consultation with and approved by D&FCFRD.

ii. The Cul de Sac Barrier posts must be installed to support: (1) a chain extending between the two posts; (2) a gate substantially similar to the barrier shown on the CDP/FDP Sheet C 200; or (3) any other structure acceptable to D&FCRD, to limit vehicular access along the Travelway to D&FCFRD.

iii. The Cul de Sac Barrier posts must be separated enough to allow a minimum of sixteen (16) feet for clearance for D&FCFRD vehicles to travel along the Travelway.

iv. A Dominion Best lock must be attached thereto allowing access by D&FCFRD.

v. The Cul de Sac Barrier must be reviewed and approved by D&FCFRD in the course of the Subdivision Plan review and approval process.

vi. The Cul de Sac Barrier must not be removed or altered without the express prior written approval by D&FCFRD.

D. **Rail Fence Gate**.

i. The Applicant must install the Rail Fence Gate in substantial conformance with the CDP/FDP as shown on Sheet C200, and pursuant to the terms and conditions of Section 26.D of this Proffer. The Rail Fence Gate must be a part of the four (4) feet tall rail fence that will delineate property boundaries between common open space and private lots.

ii. The Rail Fence Gate posts must be separated enough to allow a minimum of sixteen (16) feet for clearance for D&FCFRD vehicles to travel along the Travelway.

iii. A Dominion Best lock must be attached thereto allowing access by D&FCFRD.

iv. The Rail Fence Gate must be reviewed and approved by D&FCFRD in the course of the Subdivision Plan review and approval process.

v. The Rail Fence Gate must not be removed or altered without the express prior written approval by D&FCFRD.

E. **NESC Compliance**.

Before building permit release for Lot 8, the Applicant must deliver to the authorized representative of Fairfax County Land Development Services Building Division, or its successor, a written confirmation from Dominion that the proposed methodology for constructing the residence on Lot 8 complies with the National Electrical Safety Code ("NESC") in terms of the provisions governing working within an energized zone.

MINIMUM SETBACKS

10. **Consistent with CDP/FDP**. The minimum setbacks must be consistent with the CDP/FDP.

11. **Minimum Setback At Rear of Site**. The Applicant must incorporate construction measures consistent with those found in the Geotechnical Report revised as of October 14, 2025, prepared by CenKen Group, LLC, to ensure that structures are located an adequate distance away from the top of the slopes and to meet the minimum acceptable factor of safety per the PFM.

LANDSCAPING AND OPEN SPACE LIMITS OF CLEARING AND GRADING

12. **Clearing and Grading on CDP/FDP**. The Applicant will be in general conformance with the limits of clearing and grading as shown on the CDP/FDP.

TREE PRESERVATION

13. **Tree Inventory and Condition Analysis**. The Applicant must submit a Tree Inventory and Condition Analysis as part of the first and all subsequent Subdivision Plan submissions. The Tree Inventory and Condition Analysis must be prepared by a Certified Arborist or Registered Consulting Arborist, and must

include elements of PFM 12-0307 deemed appropriate to the project site as determined by FCON.

14. **Tree Preservation Plan**. The Applicant must submit a Tree Preservation Plan and Narrative as part of the first and all subsequent Subdivision Plan submissions. The Tree Preservation Plan and Narrative must be prepared by a Certified Arborist or Registered Consulting Arborist, and must include elements of PFM 12-0309 deemed appropriate to the project site as determined by FCON.

15. **Project Arborist/Pre-construction Meeting**. Before the pre-construction meeting the Applicant must have the approved limits of clearing and grading flagged with a continuous line of flagging. The Applicant must retain the services of a Certified Arborist or Registered Consulting Arborist ("Project Arborist") to attend the pre-construction meeting to review the limits of clearing and grading with an FCON representative to determine where adjustments to the clearing limits can be made to increase the area of the tree preservation and/or to increase the survivability of trees at the limits of clearing and grading. Such adjustments must be recorded by the Project Arborist and tree protection fencing must be implemented under the Project Arborist's supervision based on these adjustments.

16. **Tree Protection Fencing**. The Applicant must provide appropriate tree protection devices, based on site conditions and proposed construction activities as reviewed and approved by FCON. Tree protection fencing will consist of four-foot high welded wire attached to six-foot steel posts driven 18 inches into the ground and space no further than 10 feet apart, or super silt fence.

17. **Tree Preservation Measures**. Tree preservation measures must be clearly identified, labeled, and detailed on the Erosion and Sediment Control Plan sheets and Tree Preservation Plan. Tree preservation measures may include, but are not limited to, the following: root pruning, crown pruning, tree protection fence, and mulching. Specifications must be provided on the plan detailing how preservation measures will be implemented. Tree preservation activities must be completed during implementation of Phase 1 of the Erosion and Sediment Control Plan.

18. **Soil Remediation**. Soil in all planting areas as identified on the landscape plan of the CDP/FDP must be the subject of remedial action to restore planting areas to satisfy the cultural requirements of trees, shrubs and groundcovers, with attention to deep soil aeration, the addition of organic matter throughout the soil profile to at least 12 inches, and the addition of organic matter on top of the soil. The Applicant will provide notes and details at the time of Subdivision Plan specifying how the soil will be restored for the establishment and long-term survival of landscape plants for review by FCON.

19. **Site Monitoring**. The Applicant's Project Arborist must be present on site during implementation of the Phase 1 Erosion and Sediment Control Plan and monitor any construction activities conducted within or adjacent to areas of trees to be preserved. Construction activities include, but may not be limited to clearing, root pruning, tree protection fence installation, vegetation/tree removal, and demolition activities. During implementation of Phase 2 Erosion and Sediment Control Plan, the Project Arborist must visit the site on a regular basis to continue monitoring tree preservation measures and ensure that all activities are conducted as identified in the Tree Preservation Plan and approved by FCON. Written reports must be submitted to FCON and the SDID site inspector detailing site visits. A monitoring schedule and Project Arborist reports must be described and detailed in the Tree Preservation Plan.

20. **Invasive Plant Species Management**. Forested areas containing plant species that are known to be invasive in quantities that threaten the long-term health and survival of the existing vegetation present will be the subject of invasive plant species management in order for the area to be awarded full 10-year canopy credit.

21. **Invasive Species Plan**. At the time of Subdivision Plan submission, the applicant must provide an invasive species plan for review and approval by FCON specifying the common and scientific name of invasive species proposed for management, the target area along the limits of clearing, and within any tree preservation areas located inside of the clearing limits for management efforts, methods of control and disposal of invasive plants, timing of treatments and monitoring, duration of the management program, and potential reforestation as needed. The Applicant must monitor the managed areas for a period of five (5) years upon substantial completion of the development.

22. **Non-Invasive Native Species**. Landscaping must be generally consistent with the quality, quantity and the locations shown on the CDP/FDP and must be non-invasive, predominantly native species. All landscaping provided must be native to the mid-Atlantic region to the extent available and feasible, and must be non-invasive (meaning that the Applicant must not use any plant species identified in the 2014, or latest version, of the Virginia Invasive Plant Species List published by the Virginia Department of Conservation and Recreation and include a plant selection that includes species that will reduce the need for supplemental watering and the use of chemical fertilizers, herbicides and pesticides. The Applicant reserves the right, in consultation with and approval by FCON, to modify the exact species to be used, such as when plant materials are not available or have been deemed by FCON to no longer be appropriate.

23. **Planting Quality**. The Landscape Plan will be consistent with the quality and quantity of plantings and materials shown on the CDP/FDP and may include the

use of additional shade trees and other plant materials as determined by the Applicant. The Applicant may adjust the type and location of vegetation and the design of the amenity areas as approved by ZED and Forest Conservation, provided such adjustments otherwise are in substantial conformance with the CDP/FDP. Adjustments to the type and location of plantings may be permitted to avoid conflicts with utilities and other site engineering considerations.

24. **Subdivision Plan**. As part of the initial Subdivision Plan submission, the Applicant will submit to Forest Conservation for review and approval a detailed landscape and tree cover plan (the "Landscape Plan"), which will include, among other things:

    A. **Information**. Irrigation information and composition of the planting materials and/or structural soils used for street trees or where plantings are to be located within or on top of structures and other methods to be used to ensure the viability of the proposed plantings.

    B. **Landscape Planting Pre-Installation Meeting**. Before installation of any plants to meet the requirements of the approved landscape planting plan, the contractor/developer must coordinate a pre-installation meeting on the site with the landscape contractor, FCON staff, and any additional appropriate parties. Any proposed changes to planting locations, tree/shrub planting sizes, and species substitutions shown on the approved plan must be reviewed and must be approved by FCON staff before planting. The installation of plants not approved by FCON may require the submission of a revision to the landscape plan or removal and replacement with approved trees/shrubs before bond release.

25. **FCON Review**. The Applicant must submit a landscape plan that shows, at a minimum, landscaping as depicted on the CDP/FDP, concurrently with the first Subdivision Plan submission, and all subsequent submissions, of the Subdivision Plan for review and approval by FCON. The landscape plan will incorporate the use of native species to the extent feasible. All landscaping must be installed before the issuance of the first RUP on the Application Applicant Property, or as determined by FCON for a particular project, but no later than bond release.

LANDSCAPE PLAN

26. **Landscape Plan**. The Applicant will implement the landscape design for the Proposed Development of the CDP/FDP, which illustrates the plantings and other features to be provided with the Proposed Development. The Conceptual Landscape Plan is conceptual in nature and may be modified by the Applicant as part of final engineering and building design, provided that such modifications

provide a similar quality of landscaping as that shown on the Landscape Subdivision Plan and the CDP/FDP, as determined by FCON.

A. **Sustainable Elements**. The landscape planting plan and specifications must incorporate sustainable landscape planting techniques designed to reduce maintenance requirements; and contribute to a cleaner and healthier environment with improved air quality, stormwater management, and resource conservation capabilities that can be provided by trees and other desirable vegetation. Methods include:

i. Mulched planting beds incorporating groups of trees and other vegetation must be used to provide a root zone environment favorable to trees and other vegetation;

ii. Plant trees in areas to contribute to energy conservation for buildings, as depicted in Plate 4-12 of the Public Facilities Manual;

iii. Provide a diverse selection of native and non-invasive plants to encourage native pollinators and reduce the need for supplemental watering, and the use of chemical fertilizers, salt, herbicides and chemical control of harmful insects and disease;

iv. Sustainable landscape planting implemented with the Subdivision Plan should be made up of groups of trees including larger overstory trees (Category III and IV as listed in PFM Table 12.17) together smaller understory trees, (Category II) shrubs and groundcovers. In this application, it is acceptable for the 10-year projected canopies of overstory trees to overlap the canopies of understory trees as well as shrubs, native grasses, groundcovers, as may occur in a multi-layer, wooded environment; and

v. Inspection of mulch beds for conformance with the approved Subdivision Plan must be conducted at the time that the RUP/Non-RUP is issued for each building or phase of the plan. After mulch areas have been accepted, they must become the responsibility of the property owner who

must not be precluded from managing or planting these areas according to their preference.

B. **Demolition**. The demolition of all existing structures and site features within or adjacent to tree preservation areas must be accomplished in the least disruptive manner practical as reviewed and approved by FCON. All tree protection fencing must be in place and verified by the County before commencement of demolition activities.

C. **Transfer of Tree Preservation Plan Information**. As a permittee that will convey ownership of forested areas in common open space to the Homeowners Association, the Applicant must, at the time the HOA takes over management of the open space parcels, convey to the HOA a copy of the approved subdivision plan.

D. **Four (4) Feet Tall Rail Fence Delineation of Property Boundaries between Common Open Space and Private Lots**. Where private lots share boundaries with common open space in which trees have been preserved, the Applicant must install a four (4) feet tall rail fence in substantial conformance with the CDP/FDP as shown on Sheet C200. The rail fence must be constructed of Trex Brand, or other eco-friendly and durable fencing. The rail fence's architectural design and features must be in conformance with the detail provided on the CDP/FDP. The rail fence must be installed, repaired, replaced, and maintained in compliance with the fence details provided on the CDP/FDP or equivalent.

The rail fence posts must bear the initials "HOA" to clearly identify the boundary of the private lot and the common open space. The rail fence's location must be clearly shown and labeled on the subdivision plan.

PUBLIC FACILITIES CONTRIBUTIONS AND MINIMUM EXPENDITURE FOR RECREATIONAL FACILITIES

27. **Park Fair Share Contribution**. Before the issuance of the first RUP, the Applicant must contribute a lump sum of $893 per resident estimated to be generated by the proposed development to the Fairfax County Park Authority for use at off-site recreational facilities intended to serve the future residents of the Franconia District, as determined by the Fairfax County Park Authority in consultation with the Franconia District Supervisor. Such amount will be calculated from 3.22 net new residents per dwelling multiplied by $893, further multiplied by the number of proposed lots minus 2.

28. **Public School Contribution**. Based on the approved Residential Development Criteria, a proffer contribution of $14,956 per new student projected new student projected to be generated by the single-family detached dwellings minus 2 students (representing the two existing residential dwellings) to the Board for the construction of capital improvements, to the Fairfax County Public Schools must be made to offset the impact that new student growth will have on surrounding schools.

    The contribution is to be utilized for capital improvements to Fairfax County public schools to address impacts on the school division resulting from the Applicant's development.

    The proffer payment must occur at the time of the first building permit approval.

    If before the Applicant's payment of the amount(s) set forth in this Proffer, Fairfax County should modify the ratio of students per unit or the amount of contribution per student, the Applicant must pay the modified contribution amount to reflect the then-current ratio and/or contribution.

    The Applicant must notify the FCPS Office of Facilities Planning Services when the Subdivision Plan has been filed with the County.

29. **Minimum Expenditure for Recreational Facilities**. In accordance with the Zoning Ordinance, the Applicant must provide amenity areas and facilities design to meet the on-site recreational needs to the future residents of the Application Property. The specific design of these areas may be adjusted at the time of subdivision, provided the quality and character of the designs are compatible with those shown on the CDP/FDP. The applicant must expend a minimum of $2,500 per dwelling unit toward such recreational facilities. Before final bond release, the balance of any funds not expended on-site, as determined by LDS, will be contributed to the Fairfax County Park Authority for the provision of recreational facilities serving the Franconia District.

STORMWATER MANAGEMENT

30. **Stormwater Management Design**. Subject to the approval of LDS, the Applicant must implement a Stormwater Management (SWM) and Best Management Practices (BMP) plan to control the quantity and quality of stormwater runoff from the Applicant Property. The Applicant must provide stormwater management facilities as shown on the CDP/FDP with each submitted subdivision plan. The Applicant must meet or exceed the minimum state and Fairfax County requirements for stormwater quantity and quality, unless otherwise waived or modified.

31. **Impact of New Regulations**. Should new stormwater management regulations be issued affecting the Applicant Property, or if the Applicant determines to install alternate water quantity and quality control facilities in accordance with this proffer, the Applicant reserves the right to accommodate necessary changes to its stormwater/BMP facility designs without the requirement of a PCA, or gain approval of any administrative modifications to the CDP/FDP or proffers, provided the facility designs substantially conform with the CDP/FDP and that the facility does not result in an expansion of the limits of clearing

32. **Maintenance**. The requirements for maintaining non-County maintained SWM/BMP improvements will be in a standard maintenance agreement between the County and the Applicant, its successors and assigns (the "SWM Agreement"). The maintenance responsibilities under the SWM Agreement must be disclosed to future purchasers before entering into a contract for sale and specified in the HOA documents. After establishing the HOA pursuant to these proffers, the Applicant must provide the HOA with written materials describing proper maintenance of the approved SWM/BMP facilities in accordance with the PFM and County guidelines. This agreement will be recorded in the County land records and will run with the land. Should future County policy permit all or part of the SWM/BMP facilities on the Applicant Property to be eligible for County Maintenance, then the Applicant or the successors may request County maintenance for eligible facilities.

DESIGN

33. **Conformance with CDP/FDP**. The Applicant will construct all single-family detached dwellings on the Applicant Property in general conformance with the descriptions included on CDP/FDP Sheet C 403, and the elevations of the front, rear and side facades, including the descriptions of the materials, architectural features and colors, also included in the CDP/FDP.

34. **Garages**. Garages must be designed and constructed to accommodate two (2) automobiles, which means any 4-wheeled vehicle propelled by fuel, including electric, (i) which is manufactured primarily for use on public streets, roads, and highways, and (ii) which is rated at 8,000 pounds unloaded gross vehicle weight or less ("Automobile" or "Automobiles"). Any conversion or use of garages that will preclude the parking of at least two (2) Automobiles within the garage is prohibited. This restriction will not preclude the use of garages as a sales office in the model home during marketing of the development, with the understanding the sales office will be converted back to a garage upon sale of the model.

    A. **Covenant About Garages**. A covenant setting forth these restrictions will be recorded among the land records of Fairfax County in a form approved

by the County Attorney, which may be part of any recorded UOA/HOA declaration, before the sale of any single-family attached dwelling units and will run to the benefit of the UOA/HOA and the Board of Supervisors. These restrictions will be included in the marketing materials for the initial sales of the single-family attached units and disclosed in the UOA/HOA documents. Prospective purchasers will be advised of these restrictions, including the dimensions of the garage, in writing, before entering into a contract of sale for any single-family attached dwelling unit.

NOISE ATTENUATION, NOISE BARRIER FENCE

35. **Mitigation Measures**. Mitigation measures appropriate to reduce indoor noise for single-family detached units to no more than DNL 45 dBA and outdoor recreation areas to DNL 65 dBA must be incorporated into the development. Noise Mitigation Measures. Mitigation measures appropriate to reduce indoor noise for residential units to no more than DNL 45 dBA, and outdoor recreation areas to DNL 65 dBA, consistent with the sound attenuation recommendations in the study must be incorporated into the development. All residential units will be outside of the DNL 75 dBA. The noise contours of DNL 65 dBA and greater affecting residential units must be shown on the subdivision plan and will be identified on the building plans.

36. **Noise Barrier Fence**. The Applicant must install a noise barrier fence, including any gates installed as part of the noise barrier fence as directed by Dominion, (collectively the "Noise Barrier Fence"), in the locations labeled and shown on the CDP/FDP, to ensure that noise in outdoor recreation areas does not exceed 65 dBA Ldn.

37. **Noise Barrier Fence Materials**. The Noise Barrier Fence must be constructed of Trex Brand, or other eco-friendly and durable fencing and architecturally solid from the ground up with no gaps. The Noise Barrier Fence's architectural design and features must be in conformance with the detail provided on the CDP/FDP. The Noise Barrier Fence must be installed, repaired, replaced, and maintained in compliance with the fence details provided on the CDP/FDP or equivalent, which details must include articulation, and a mix of materials to avoid a monotonous fence line. The Noise Barrier Fence posts must use the same or similar materials as the materials used on the homes, that is: masonry brick, or stone with complementary hardie" plank fiber cement siding.

FENCE ALONG A PORTION OF THE APPLICANT PROPERTY'S NORTH PROPERTY LINE ("NORTH FENCE")

38. **Fence and Gate Installation Along A Portion Of The Applicant's Property's North Property Line**. The Applicant must install a fence, including any gates

installed as part of such fence as directed by D&FCFRD, along a portion of the Applicant's Property's north property line in the location labeled and in accordance with the detail shown Sheet C200 of the CDP/FDP (the "North Fence"). The North Fence must be constructed of Trex Brand, or other eco-friendly and durable fencing. The North Fence must be installed, repaired, replaced, and maintained in compliance with the fence details provided on the CDP/FDP or equivalent, which details must include articulation, and a mix of materials to avoid a monotonous fence line. The North Fence posts must use the same or similar materials as the materials used on the homes, that is: masonry brick, or stone with complementary hardie" plank fiber cement siding.

The North Fence maintenance responsibilities must be disclosed to future purchasers before entering into a contract for sale and specified in the HOA documents. After establishing the HOA pursuant to these proffers, the Applicant must provide the HOA with written materials describing proper maintenance of the fence.

SUSTAINABLE DESIGN

39. **Certification**. The Applicant must select one of the following programs, within its sole discretion at the time of first Subdivision Plan submission, to be implemented in the construction of the single-family detached dwelling units.

A. **EarthCraft**. Certification in accordance with the Earth Craft Program as demonstrated through documentation provided to LDS and DPD before the issuance of the RUP for each dwelling. If certification is still in process at time of RUP issuance, then the Applicant must provide documentation from the EarthCraft project manager demonstrating that the project has been registered, completed final inspection, and has met the requirements to attain EarthCraft Certification before RUP issuance for each dwelling unit. The Applicant will provide documentation to LDS and DPD demonstrating certification for the Proposed Development before final bond release; or

B. **NGBS**. Certification in accordance with the most current version of National Green Building Standard (NGBS) using the ENERGY STAR® Qualified Homes path for energy performance, as demonstrated through documentation submitted to LDS and DPD from a home energy rater certified through Home Innovation Research Labs that demonstrates that the dwelling unit has attained the certification before the issuance of the RUP for each dwelling; or

C. **Equivalent Program**. The Applicant may utilize an equivalent alternative program selected in consultation with and approved by the EB of DPD before Subdivision Plan approval.

ELECTRIC AUTOMOBILE CHARGING FACILITIES.

40. **Level 2 Automobile Charging Station in Each Garage**. Each of the garages of the houses must contain an operable Level 2 electric Automobile charging station. Each building permit plan must demonstrate that the service load can accommodate the load for the Level 2 electric Automobile charging station. Further, each Level 2 electric Automobile charging station must be functional at the time of occupancy.

UNIVERSAL DESIGN.

41. **Universal Design Offer To Initial Purchasers**. The Applicant must offer initial purchasers of all single family detached dwelling units the option, at the purchaser's sole cost, to have installed a selection of universal design features, as determined by the Applicant, which may include, but not be limited to: (i) clear knee space under the sink in the kitchen; (ii) lever door handles instead of knobs: (iii) light switches 48" high; (iv) thermostats a maximum of 48" high; (v) assist bars in showers and bathtubs; (vi) electrical outlets at a minimal 18" high; (vii) one no step pathway into the house; (viii) 36" wide doorways; and/or (ix) zero threshold doorways.

HOMEOWNERS ASSOCIATION ("HOA") ESTABLISHMENT, DISCLOSURES OF HOMEOWNERS RESPONSIBILITIES CONCERNING THE HOA

42. **Establishment**. Before record plat approval, the Applicant will provide Land Development Services (LDS) with documentation that the Applicant has established an HOA in accordance with the Zoning Ordinance. The purpose of the HOA will be, among other things, establishing the necessary covenants governing the use and operation of garages, common open space and other facilities of the approved development and to provide a mechanism for ensuring the ability to complete the maintenance obligations and other provisions noted in these proffer conditions, including an estimated budget for such common maintenance items.

43. **HOA Documents Review, Budgeting**. If an HOA is established for the community, before the issuance of the first RUP for the Application Property, the Applicant must prepare and submit HOA documents for review and approval by the County Attorney's office. A 10-year budget must be included in the HOA documents. The 10-year budget must include a line item for contributions for future maintenance of the private stormwater management facilities in accordance with the Fairfax County Public Facilities Manual ("PFM").

44. **Dedication Of Outlots to HOA**. At the time of record plat recordation, the Outlots shown on the CDP/FDP, must be dedicated to the HOA and maintained by the HOA.

45. **Disclosure of Stormwater Management Responsibilities**. Before entering into a contract of sale, all prospective purchasers will be notified in writing by the Applicant of the maintenance responsibility of the HOA for the stormwater management facilities, as shown on the CDP/FDP.

46. **Disclosure of Use of the Garages for Parking Two (2) Automobiles**. Before entering into a contract of sale, all prospective purchasers will be notified in writing by the Applicant of the requirements set forth in Section 34, including without limitation, that any conversion or use of garages that will preclude the parking of at least two (2) Automobiles within the garage is prohibited, and that there is an enforceable recorded covenant in the land records that sets forth such restrictions.

47. **Noise Barrier Fence**. The noise fence barrier maintenance responsibilities must be disclosed to future purchasers before entering into a contract for sale and specified in the HOA documents. After establishing the HOA pursuant to these proffers, the Applicant must provide the HOA with written materials describing proper maintenance of the noise fence barrier.

48. **Fence Along A Portion of the Applicant Property's North Property Line ("North Fence")**. The North Fence along a portion of the Property's north property Line must be installed, repaired, replaced, and maintained in compliance with the fence details provided on Sheet C200 of the CDP/FDP. The North Fence maintenance responsibilities must be disclosed to future purchasers before entering into a contract for sale and specified in the HOA documents. After establishing the HOA pursuant to these proffers, the Applicant must provide the HOA with written materials describing proper maintenance of the North Fence.

49. **Rail Fence**. The maintenance responsibilities concerning the four (4) feet tall rail fence as shown on the CDP/FDP, Sheet C200, must be disclosed to future purchasers before entering into a contract for sale and specified in the HOA documents. After establishing the HOA pursuant to these proffers, the Applicant must provide the HOA with written materials describing proper maintenance of the rail fence.

50. **HOA Maintenance of Outlot A, Outlot B, Outlot C and Outlot D**. Outlot A, Outlot B, Outlot C and Outlot D must be repaired, replaced and maintained by the HOA. The Outlot maintenance responsibilities must be disclosed to future purchasers before entering into a contract for sale and specified in the HOA documents. After establishing the HOA pursuant to these proffers, the Applicant must provide the HOA with written materials describing proper maintenance of the Outlots.

51. **HOA Provisions Concerning the Travelway, Cul de Sac Barrier and Rail Fence Gate**. The following must be disclosed to all of the future purchasers before entering into a contract for sale and specified in the HOA documents.

A. **Maintenance**. The Travelway, Cul de Sac Barrier and Rail Fence Gate must be repaired, replaced and maintained by the HOA.

B. **Dominion and Fire and Rescue Provisions**. The existence of the terms and conditions set forth in Section 9, identified as "Access for Dominion Energy and Fairfax County Fire and Rescue" of this Proffer.

C. **Written Materials**. After establishing the HOA pursuant to these proffers, the Applicant must provide the HOA with written materials describing proper maintenance of the Travelway, Cul de Sac Barrier and Rail Fence Gate.

D. **Disclosures In Initial Deeds**. All of the above disclosures set forth in this Section 51 must also be included in the initial deeds of conveyance and in the HOA governing documents.

CONTRIBUTION TO THE HOUSING TRUST FUND

Before the issuance of the first building permit, the applicant will contribute to the Fairfax County Housing Trust Fund the sum equal to one-half percent (0.5%) of the projected sales price of each new single-family dwelling constructed to assist Fairfax County's low- and moderate-income housing goals. The projected sales price will be based on the aggregate sales price of all the units subject to the contribution, as if all those units were sold at the time of the issuance of the first building permit and is estimated through comparable sales of similar types of units. The projected sales price will be determined by the Department of Housing and Community Development (HCD), in consultation with the applicant and the Department of Land Development Services and will be approved by HCD.

WELL AND/OR SEPTIC SYSTEMS TO BE ABANDONED

Before any demolition of the structure or grading performed on the property for the proposed new development, any existing well or onsite septic system must be abandoned properly in accordance with guidelines provided by the Health Department. Documentation of the abandonment must be submitted to the Health Department and LDS.

GEOTECHNICAL REVIEW

Before Subdivision Plan approval and in accordance with the provisions of the PFM, the Applicant will submit a supporting geotechnical study of the proposed development to the Geotechnical Review Board ("GRB") through LDS/SDID.

Following the GRB's and SDID's review and approval of the study and its recommendations, the Applicant must comply with such recommendations and implement such engineering practices into the project design to comply with such recommendations and address potential geotechnical and geo-structural problems, to the satisfaction of LDS.

MISCELLANEOUS

52. **Timing of Improvements**. Notwithstanding any provision of the Proffers to the contrary, upon demonstration that despite diligent efforts or due to factors beyond the Applicant's control any proffered improvements have been delayed (due to, among other things, an inability to secure necessary permission for utility relocations, VDOT approvals, Dominion approvals, FCFRD approvals, necessary easements, and/or Subdivision Plan approval, etc.) beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of any of the proffered improvement(s).

53. **Escalation**. All proffers specifying contribution amounts or budgets for operational expenses will escalate on annual basis from the base year of 2021 and change effective each January 1 thereafter, based on changes in the Consumer Price Index for all urban consumers (not seasonally adjusted) ("CPI-U"), both as permitted by Virginia State Code Section 15.2-2303.3, as amended.

54. **Severability**. Any of the dwellings within the Applicant Property may be subject to Proffered Condition Amendments initiated by the Applicant without the joinder or consent of lot owners other than the Applicant.

55. **Successors And Assigns**. These Proffers will bind and inure to the benefit of the Applicant and his/her/their heirs, successors and assigns.

56. **Counterparts**. These Proffers may be executed in one or more counterparts, each of which when so executed and delivered will be deemed an original, and all of which taken together will constitute but one and the same instrument.

[SIGNATURE PAGES FOLLOW.]

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Steven Michael Sushner, Trustee for the Trust Agreement of Steven Michael Sushner, dated January 26, 2009, as to a 50% Interest in the Property by virtue of a deed from France/Hart Family Trust, dated October 10, 2018

Adam Kirschenbaum, Trustee for the Trust Agreement of Adam Kirschenbaum, dated January 26, 2009, as to a 50% Interest in the Property by virtue of a deed from France/Hart Family Trust, dated October 10, 2018